



Del Norte Neighborhood Development Corporation Denver, CO

HOME Investment Partnerships Program



To: Kathleen Burke
Regional Director, Office of Community Planning and Development
Denver, CO, 8AD

From: //signed//
Ronald J. Hosking
Regional Inspector General for Audit, 7AGA

Subject: Del Norte Neighborhood Development Corporation, Denver, CO, Failed To Provide Eight Units of HOME-Funded Affordable Housing for the Required 20-Year Period

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of Del Norte Neighborhood Development Corporation's HOME Investment Partnerships program grant funds.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, Appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5870.



Audit Report Number: 2020-DE-1001

Date: November 26, 2019

Del Norte Neighborhood Development Corporation, Denver, CO, Failed To Provide Eight Units of HOME-Funded Affordable Housing for the Required 20-Year Period

Highlights

What We Audited and Why

We audited Del Norte Neighborhood Development Corporation based on information we received indicating that Del Norte may have violated the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships program rules during the demolition of one of its low- to moderate-income rental developments. Our objective was to determine whether Del Norte properly transferred, stopped, modified, or extended the availability of affordable units for the Emerson Apartments, received HUD approval before demolishing the Emerson Apartments, and followed Federal contracting and procurement regulations while developing Veterans Apartments.

What We Found

Del Norte properly followed the Federal contracting and procurement regulations while developing Veterans Apartments. However, it improperly transferred eight units of HOME-funded affordable housing. Del Norte should have kept these units at West 32nd Apartments but violated HOME rules by transferring them to Emerson Apartments and then demolishing Emerson without HUD approval. This condition occurred because Del Norte lacked controls to ensure that it honored the HOME program's affordability requirements. As a result, eight affordable units were no longer available for low- to moderate-income families.

What We Recommend

We recommend that the Director of the Denver Office of Community Planning and Development (1) work with the City of Denver Office of Economic Development to recapture \$37,000 in HOME funds not properly used for the affordable housing projects, and (2) require Del Norte to develop policies and procedures to prevent ineligible affordability period transfers.

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Background and Objective

HOME Investment Partnerships Program

The HOME Investment Partnerships program is authorized by the Cranston-Gonzalez National Affordable Housing Act as amended. The U.S. Department of Housing and Urban Development (HUD) allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing low- and moderate income families. In 2018, the HOME program distributed \$1.362 billion to participating jurisdictions, with the City and County of Denver receiving \$3.2 million and the State of Colorado receiving \$6.6 million.

State and local governments that become participating jurisdictions may use HOME funds to carry out multiyear housing strategies through acquisition, rehabilitation, and new construction of housing and tenant-based rental assistance. Participating jurisdictions may provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies, and other forms of investment that HUD approves. A participating jurisdiction may also work with subrecipients, public agencies, or nonprofit organizations it selects to administer all or a portion of the participating jurisdiction's HOME program.

Del Norte Neighborhood Development Corporation

Del Norte is a nonprofit subrecipient of both the City and State. Del Norte was established in 1978 with a mission to create and preserve housing and other opportunities for underserved households, including those that are low and moderate income, those that are Spanish-speaking, and those with special needs. To accomplish this mission, Del Norte rehabilitates and develops single-family and multifamily housing, operates rental units, and provides affordable purchase opportunities to low- and moderate-income families. These activities include credit and loan counseling and downpayment assistance in the form of loans and grants. Through 2018, the City and State have provided Del Norte \$1.88 million in HOME grants to help fund the development or rehabilitation of nine low- to moderate-income housing projects. See figure 1 below.



Figure 1 Examples of Del Norte properties. From left-to-right: Veterans Apartments, Juan Diego Highlands, and Avondale Apartments West Colfax (photos copied from Del Norte's "Summary of Current Property Portfolio")

Our objective was to determine whether Del Norte properly transferred, stopped, modified, or extended the availability of affordable units for the Emerson Apartments, received program

approval before demolishing the Emerson Apartments, and followed Federal contracting and procurement regulations while developing Veterans Apartments.

Results of Audit

Finding: Del Norte Improperly Transferred Eight Units of HOME-funded Affordable Housing

Del Norte improperly transferred eight units of HOME-funded affordable housing. This condition occurred because Del Norte lacked controls to ensure that it honored the HOME program's affordability requirements. As a result, eight units were no longer affordable for low- to moderate-income families.

Del Norte Improperly Transferred Affordable Housing Units

Del Norte improperly transferred eight units of HOME-funded affordable housing away from West 32nd Apartments. Del Norte sought and received approval from the City of Denver for the transfer however that request should have been made to HUD. The HOME Final Rule is silent on whether an entity can request a waiver to the affordability requirements. However HUD only has the authority to waive the regulations to address damage in a Presidentially declared disaster area as outlined in 24 CFR 92.4 and this was not applicable in this situation. Without a waiver from HUD, HOME rules prohibited the transfer of those units. The eight units were associated with a grant to rehabilitate West 32nd Apartments, which required that those eight units remain as affordable housing for 20 years (programmatically known as the affordability period). Del Norte incorrectly tried to transfer those affordable units to other projects as follows:

- In 2002, Denver provided a \$37,000 HOME loan for residential rehabilitation at West 32nd Apartments, which included a 20-year affordability period for the property's eight units.
- In 2008, Del Norte sold West 32nd Apartments for private development and inappropriately transferred the \$37,000 loan and the associated affordability period to Emerson Apartments.
- Del Norte later demolished Emerson Apartments in 2019 and attempted an inappropriate transfer to Chesney Kleinjohn Apartments, but stopped when the City declined their request.

The timeline in figure 2 illustrates the affordability period and grant moving from one project to another.

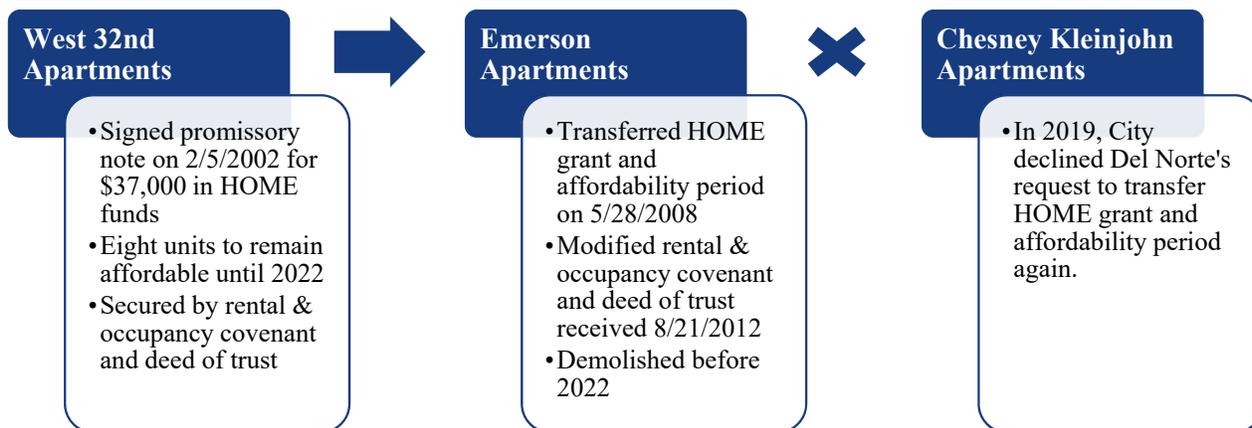


Figure 2 Movement of West 32nd Apartments' HOME grant and affordability period

Regulations at 24 CFR 92.252(e)(1)(i) do not allow the transfer of affordability periods from one property to another. HOME funds used for development, rehabilitation, and acquisition costs of a project tie the affordability period to that project. HOME affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. Therefore, Del Norte's decision to remove the affordability period from West 32nd Apartments violates HOME rules.

After transferring the affordability period to the Emerson Apartments, Del Norte demolished Emerson without HUD approval. Del Norte's leadership acknowledged that it demolished the project before receiving approval because it deemed the project unsafe. As stated earlier in this finding, Del Norte agreed to a 20 year affordability period on this project that will not expire until February 28, 2022. Del Norte's decision to demolish Emerson's eight affordable units meant that the project was out of compliance with the Rental and Occupancy Covenant.

Del Norte Lacked Controls To Ensure That It Honored Affordability Requirements

Del Norte lacked controls to ensure that it honored the HOME program's affordability requirements. Del Norte's staff understood the HOME program and knew that affordability requirements could not be transferred to another property. However, Del Norte's leadership did not have a system for conducting critical second-level reviews of HOME program decisions.

Eight Units Were No Longer Affordable

Eight affordable units were no longer available for low- to moderate-income families. Del Norte's original HOME grant required it to provide eight affordable units at West 32nd Apartments until 2022. Because Del Norte ineligibly transferred the grant and sold the property, the affordable units were no longer available at that location. When Del Norte later demolished the Emerson Apartments before the end of the affordability period, the eight affordable units were not located anywhere. See figures 3 and 4 below.



Figure 3 The development at West 32nd



Figure 4 The demolished Emerson Apartments

Recommendations

We recommend that the Director of the Denver Office of Community Planning and Development

- 1A. Work with the City of Denver Office of Economic Development to recapture \$37,000 in HOME funds not properly used for the affordable housing projects.
- 1B. Require Del Norte to develop policies and procedures to prevent ineligible affordability period transfers.

Scope and Methodology

We performed our audit work in April and May 2019. We conducted our onsite fieldwork at Del Norte's office in Denver, CO, and our work covered Del Norte's HOME grant-fund activities from 2011 to 2018.

To accomplish our objective, we

- conducted interviews with Del Norte officials,
- studied HUD regulations related to the HOME program,
- reviewed Del Norte's policies and procedures related to the HOME program,
- selected a sample of HOME activities to review, and
- analyzed individual HOME documentation.

Sample Selection

We selected a nonstatistical sample of two low- to moderate-income properties involving Del Norte's HOME grant funds. Del Norte used HOME grant funds to either develop or rehabilitate a total of nine properties during our audit period. We determined that a sample size of two properties was sufficient to accomplish our objective. Our results apply only to the sampled properties and cannot be projected to the larger universe.

- Emerson Apartments – We selected this property based on information from HUD's Office of Community Planning and Development regarding the property's demolition.
- Veterans Apartments – We selected this property because, at \$900,000, it was Del Norte's largest HOME development during our audit period.

We analyzed the two sample properties to determine whether Del Norte followed all of the requirements to ensure that the affordability requirements were properly transferred, stopped, modified, or extended for the Emerson Apartments. Additionally, we determined whether Del Norte received HUD approval before demolishing this property. Finally, we determined whether Del Norte followed the Federal contracting and procurement regulations in the development of Veterans Apartments.

We did not rely on computer-generated data as audit evidence or to support our audit conclusions. We used source documentation obtained from the auditee for background information purposes. We based our conclusions on source documentation reviewed during the audit.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls to ensure that Del Norte complied with HOME procurement requirements.
- Controls to ensure that Del Norte complied with HOME affordability requirements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- Del Norte lacked controls to ensure that it honored the HOME program's affordability requirements (finding).

Appendixes

Appendix A

Schedule of Questioned Costs

Recommendation number	Ineligible 1/
1A	\$37,000
Totals	37,000

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments

Comment 1

DEL NORTE RESPONSE TO DRAFT OIG LETTER

The draft letter from the OIG concludes with a finding that Del Norte improperly transferred eight units of HOME-funded affordable housing. This finding is not supported by facts. Additionally, the stated results of this finding - that eight units were no longer affordable to moderate-income families - is unsubstantiated and incorrect.

A. Regarding the finding of improper transfer, i.e., releasing the West 32nd property from the affordability covenant and moving the eight HOME-funded units to the property at 1358 Emerson Street, the draft letter should incorporate the following background information:

1. In 2006, the West 32nd property was not performing well financially, and Del Norte concluded that continued operation was not feasible. In order to prevent foreclosure, which would have extinguished both the loan and the affordability covenant, Del Norte sought help from the Participating Jurisdiction, the City and County of Denver, to find options to save the property. The discussions recognized that a foreclosure on the property would terminate the affordability restrictions.

After several months, a plan was developed that included the transfer of the eight restricted HOME-funded units to another building known as the Emerson Apartments. This five-part plan is set out in the letter dated May 28, 2008 from an authorized official of the PJ. As directed by the PJ, Del Norte performed the five items, which included selling the property, giving the PJ all sale documents, and requiring the new owner to honor all current leases.

Shortly thereafter, the Director of Housing of the PJ released the affordability covenant from the West 32nd property and moved the covenant to Emerson.

2. Under the plan described above, even if the "transfer" of the affordability restrictions were improper, the actions taken by the PJ and Del Norte had the benefit of preserving affordable units that would have been lost forever upon a foreclosure or transfer in lieu of foreclosure.

3. HUD Regulations do not include an explicit prohibition on the transfer of HOME-funded units. However, the regulations recognize that affordability restrictions may terminate upon a foreclosure. Specifically, 24 CFR 92.252 (e) (1) (ii) states, "...the participating jurisdiction may provide that the affordability restrictions may terminate upon foreclosure or *transfer in lieu of foreclosure*...".

4. Notwithstanding the above citation, if the transfer were improper, Del Norte had neither the authorization nor the ability to transfer the covenant related to the \$37,000 HOME loan. Only the PJ could have taken the actions required to transfer the covenant by releasing the covenant on the West 32nd property. The audit report should not include a finding of improper action by Del Norte.

Comment 2

B. On page 5, bullet three, the OIG draft creates a Catch22 by concluding the demolition of the Emerson Apartments was premature because the covenant was not transferred correctly to a third property.

Comment 3

1. The OIG draft concluded that the transfer of the covenant of the HOME-funded units was improper, meaning the restrictions stayed at the West 32nd address. This makes the demolition of the Emerson a moot point since there were never any restrictions on Emerson.

2. But the report goes on to state that Del Norte improperly demolished the Emerson because it was restricted. If the transfer of the covenant of the HOME-assisted units *were* proper, (contrary to the finding) then the affordability restrictions continued after the covenant was transferred to the Emerson. In this case, the draft does not consider the affordability plan for the new development at the Emerson site.

C. The OIG draft does not accurately reflect the circumstances related to the demolition of the property at 1358 Emerson Street, Denver CO 80218, known as the Emerson Apartments. The draft does not consider the deteriorated condition of the Emerson. This includes the fact that seven of the twelve units were uninhabitable and had been vacant for months. At the time of the demolition, the entire building had been vacant for three months. It needs to be mentioned that the property is directly across the street from Morey Middle School, educating children aged 10 to 14. The determination in the draft audit report - that it was inappropriate to demolish the Emerson - effectively takes the position that the "correct" solution would have been to let the building stand, deteriorating, remaining uninhabitable, unsafe, and a liability to all parties and the community until the HOME restrictions expired in 2022. Ironically, this is the solution that would have resulted in the loss of eight affordable units.

Comment 4

D. On page 5, bullet three and in the accompanying diagram in the OIG draft, it states that Del Norte demolished the Emerson and then attempted a second (inappropriate) transfer, but the City declined the request. This bullet point clouds the finding of improper transfer of eight HOME-funded units and is also incorrect in the sequence of events. Additionally, the statement implies Del Norte tried to do something dishonest. Del Norte demolished the Emerson with the full knowledge of the PJ, and only after receiving approval from the PJ to transfer the eight HOME-funded units to the Chesney Kleinjohn property. Below is the correct timeline:

1. On March 22, 2018, Del Norte submitted a proposal to the City of Denver, PJ, requesting a loan to Del Norte to subsidize a new affordable housing project to be constructed at the Emerson site, once the Emerson Apartments were demolished. The application made it clear that the existing building would be demolished, which was supported by structural, soil, and contractor reports. In April 2018, Del Norte began negotiations with City staff to underwrite the potential loan. In June of 2018, as part of the City's due diligence, five City staff members toured the Emerson. The tour included inspecting the units with roof damage seen from the interior, other units where the plumbing had disassembled by shearing force, and visualizing heaving floors throughout the property. At that time, only five units were occupied, with one of the five tenants ready to move out.

2. In November 2018, when questioned by a Del Norte attorney about the affordability covenant that had been transferred from the West 32nd property to the Emerson, and its relationship to the new loan, City staff explained that the old covenant could be superseded by a new, forty-year covenant that would be placed on the new project when the new loan was made. On December 13, 2018, City staff notified Del Norte that Del Norte was awarded a new loan for the new affordable housing development on the Emerson site.

Comment 5

3. On January 29, 2018, Del Norte attorney re-questioned City staff about the old covenant. City staff stated that although they understood demolition was the only option and that demolition was imminent, City staff realized that demolition of HOME units may *pose a challenge*, their words. City staff then proposed transferring the HOME units to another Del Norte property. After reviewing the Del Norte portfolio, it was decided to transfer the eight HOME units to the Chesney Kleinjohn Apartments. City staff requested that Del Norte submit a letter requesting the transfer. The Del Norte attorney asked City staff if transferring the HOME covenant to the third property would release the old covenant from the Emerson property. City staff confirmed this. The proposed transfer was approved by City staff and taken to the City Loan Review Committee. The loan was fully executed by the City on January 31, 2018.

4. On February 21, 2019, City staff notified Del Norte that the Loan Review Committee approved the transfer of the covenant of the eight HOME-assisted units from the Emerson to the Chesney Kleinjohn Apartments.

5. On February 25, 2019, after performing all required testing and receiving a City issued permit, Del Norte demolished the Emerson.

6. On March 6, 2019, the Chief Housing Officer of Denver notified Del Norte that they changed their position and it could not approve the transfer of the covenant.

E. Additional comments related to the OIG report:

1. On page 5, bullet one, the draft audit report should read that it was the City of Denver (the PJ) that provided the \$37,000 in funding for the West 32nd rehabilitation in 2002.

2. In the same bullet point, the PJ provided the funding as a loan, not a grant, as written. Please note that Del Norte made regular interest and principal payments to the PJ on the \$37,000 loan during the loan period. On March 15, 2019, the loan was paid in full on with a final payment of \$14,784.74.

3. On page 6, paragraph 3, the second half of sentence 2, “Del Norte staff understood the HOME program *and knew that affordability requirements could not be transferred to another property.*” is incorrect. Acceptability to transfer affordability requirements was not clear in 2002, in 2018, and is not clear today, as noted in 24 CFR 92.252 (e) (1) (ii), which is open to interpretation. Del Norte staff and Del Norte attorneys have consistently questioned authorities, requested citations, inquired consultants, and searched regulations in this regard. This false statement implies Del Norte staff attempted an unethical maneuver.

4. On page 6, paragraph 4, third sentence, “Because Del Norte ineligibly transferred the grant and sold the property for private development, the affordable units were no longer available at that location.” is incorrect in its entirety. As noted above, the ineligible transfer has not been proven, Del Norte did not have the authority or ability to transfer any PJ signed documents, and the instrument was a loan. Del Norte did not sell the property for private development. This statement misrepresents Del Norte’s motives. In fact, one of the rules of the sale is that the tenants were able to remain in the property with their leases in full force, negating the last part of the sentence that affordable units were no longer available.

Comment 6

5. Similarly, the last sentence of that same paragraph "...the eight affordable units were not located anywhere." was not substantiated. The apartments at West 32nd still stand. It appears they have been occupied since Del Norte sold them. Del Norte has no information on the tenancy, if any of the original tenants reside there, if they are qualified, or if the PJ monitors the new owner for compliance. If the OIG's stance is that HOME covenants "run with the land" then the covenant is still on the units and the City of Denver (PJ) may have information in that regard.

F. Other general comments:

1. Del Norte asserts that the result of the OIG finding, found on page 5 of the draft, that eight affordable units of housing has gone away, is invalid. The new project at the Emerson site is going to have twenty-one units of housing, all for households with incomes below 60% AMI. Further, seven of the units will be home to households earning below 30% AMI. The covenant for these units will be for forty years. 24 CFR 92.252 (e) (3) speaks to the idea of the affordability restrictions being revived. Del Norte's plan to keep, and add, housing with affordability restrictions does just that. Del Norte's mission is to provide safe, sanitary, and affordable housing to low income and special needs individuals and families. Our plan to build a new home for twenty-one low income families, restricted for at least forty years, supports both Del Norte's mission and the mission of HUD.

2. The HOME restrictions the PJ placed on the loan were unreasonable and bad business. The 24 CFR 92.252 (e) table shows the period of affordability for funding under \$15,000 *per unit* minimum is five years. \$37,000 split over eight units is \$4,650 each, 69% less than \$15,000. The lopsided amount of funding restricting the eight units to rents at 30% of FMR for twenty years may have been what led the West 32nd property to become unsustainable. Please note, Del Norte did maintain the restriction for more than the HUD affordability period of five years.

3. Throughout all these processes, Del Norte has acted in good faith, seeking assistance from the maker of the loan and the original recipient of the HUD funds: the PJ. Del Norte relied on guidance and direction from the PJ to avoid any irregularities with HUD and to preserve affordable housing, as directed in our contract with the PJ. Additionally, Del Norte has sought assistance from other HUD connections. Indeed, the very reason this audit came about was because Del Norte reached out to HUD local.

4. The draft letter calls for Del Norte to develop policies and procedures to prevent ineligible affordability period transfers. As confirmed by the description above, Del Norte's actions with respect to the West 32nd and Emerson properties reflect a concerted effort to comply with the applicable requirements, so it is not clear what additional policies and procedures might apply. Del Norte reviewed the applicable agreements and HUD regulations, sought guidance from both HUD and the PJ, and acted only after approval by the PJ of the proposed actions.

In conclusion, Del Norte did not have the authority, means, or ability to transfer the covenant or any documents concerning the HOME funding of West 32nd property. If the conclusion of the draft is that the transfer of eight HOME-assisted units from West 32nd was improper, and the restrictions "run with the land," then the restrictions remain on the West 32nd property and it is up to the PJ to make sure the current owner is compliant. As stated in the Monitoring HOME manual printed by HUD and ICF International, page 1, sentence 1, "When HUD provides a HOME PJ with HOME funds, it holds the PJ accountable for compliance with all HOME program regulations. This is true even if the PJ provides some of its HOME allocations to other entities to help carry out its HOME-funded activities."

Only if the OIG changes its finding, and then concludes that the original transfer was acceptable, could the assertion in the OIG report that Del Norte improperly demolished the Emerson be logical and the unauthorized second transfer claim ring true. But the improper demolition and the unauthorized second transfer assertions are not true. Further, Del Norte did not have the authority or ability to transfer the covenant a second time. Only the PJ can amend or transfer the loan documents that it has executed.

OIG Evaluation of Auditee Comments

- Comment 1 As stated in this report on page 6, Regulations at 24 CFR 92.252 do not allow the transfer of affordability periods from one property to another. HOME funds used for development, rehabilitation, and acquisition costs of a project tie the affordability period to that project. HOME affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership, and it is the responsibility of both the participating jurisdiction and the subrecipient to comply with them. Therefore, Del Norte’s decision to remove the affordability period from West 32nd Apartments violates HOME rules.
- Comment 2 The City of Denver and Del Norte executed a Rental and Occupancy Covenant that officially transferred the affordability period from West 32nd to Emerson Apartments. While this transfer of West 32nd was in violation of HOME rules, the signed agreement meant Emerson Apartments was, by contract, operating under a HOME affordability restriction. Therefore, the demolition of Emerson Apartments without HUD approval was a separate, additional violation of HOME requirements.
- Comment 3 Regardless of the condition of Emerson Apartment, Del Norte did not have authorization to demolish the project as it had an affordability restriction until 2022. The unauthorized demolition of Emerson Apartments ultimately removed eight affordable units. Del Norte should have sought permission from the City, who would have needed to consult with HUD before demolishing the property.
- Comment 4 As outlined by the auditee comments, the demolition of Emerson Apartments occurred despite the notification from the City of Denver on March 6, 2019. During the audit, we reviewed the official letter sent from the City of Denver to Del Norte on that date, which stated:
- “It has come to our attention that Del Norte Neighborhood Development Corporation demolished the property they own at 1358 Emerson Street without first properly ensuring means to secure the eight HOME units that are required on this site. This action was completed against HUD requirements and without approval of Denver Economic Development and Opportunity, formerly the Office of Economic Development. According to §92.252 - Qualification as affordable housing: Rental housing, (e) Periods of affordability, “The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified.” The City is required annually to receive a report from the property of their tenants, verifying they meet the HOME restrictions. Del Norte did not meet the necessary conditions for demolition and did not sufficiently secure HOME units required on the site prior to demolition. **Therefore, Del Norte**

Neighborhood Development Corporation is currently out of compliance with HOME regulations.”

Del Norte’s demolition of Emerson Apartments occurred without the City of Denver signing a new Rental and Occupancy Covenant transferring the affordability period away from Emerson Apartments. Based on this, we conclude that Emerson Apartments was covered by the HOME requirements at the time of demolition, and that demolition violated those requirements.

Comment 5 We changed the wording to show the City provided the loan and not Del Norte. Additionally, we changed the wording from ‘grant’ to ‘loan’ to better reflect what Del Norte received from the City of Denver.

During multiple interviews, Del Norte staff acknowledged that they understood the HOME affordability requirements and knew the affordability requirements could not be transferred.

Although Del Norte may not have the “authority” to unilaterally transfer the affordability requirements, it does have the responsibility to follow all HOME requirements.

The assertion that the affordable units are still available at West 32nd is false. The Denver Office of Economic Development stated they no longer monitor that property for affordability since the transfer to Emerson Apartments. Therefore, the demolition of Emerson Apartments removed eight affordable housing units.

Comment 6 Currently, the location of the Emerson Apartments is an empty lot due to the unauthorized demolition. Therefore, our assertion is correct that Del Norte no longer has eight affordable units that are restricted until 2022.